

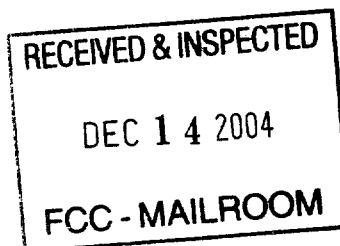
# **US LEC**

**voice / data / Internet**

December 13, 2004

**VIA OVERNIGHT DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554



**US LEC Corp.**  
Morrocroft III  
6801 Morrison Boulevard  
Charlotte, North Carolina 28211  
(704) 319-1000  
www.uslec.com

**DOCKET FILE COPY ORIGINAL**

Re: US LEC Corp.  
Response to Opposition of the American Public Communications Council To  
Requests for Additional Time to File System Audit Reports, CC Docket No. 96-  
128

Dear Ms. Dortch:

Enclosed, on behalf of US LEC Corp., are an original and four copies of the above-referenced Response. Also enclosed is a proof of filing copy that we ask be date stamped and returned to us in the accompanying self-addressed, postage pre-paid envelope.

Please contact the undersigned with any questions or requests for additional information. My direct dial telephone number is (704) 319-1119.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Romine".

Terry J. Romine

Enclosures

cc: Service List

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**RECEIVED & INSPECTED  
DEC 14 2004  
FCC - MAILROOM**

In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the Telecommunications	)	
Act of 1996	)	

**RESPONSE BY US LEC CORP. TO  
OPPOSITION OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL  
TO REQUESTS FOR ADDITIONAL TIME  
TO FILE SYSTEM AUDIT REPORTS**

US LEC Corp., on behalf of itself and its operating subsidiaries,<sup>1</sup> (individually and collectively "US LEC") hereby responds to the Opposition filed by the American Public Communications Council ("APCC") dated as of December 6, 2004<sup>2</sup> in the above-styled proceeding ("Opposition") and requests that the Federal Communications Commission ("FCC") dismiss the Opposition because (a) it was untimely filed and (b) the allegations against US LEC as to the status of the filing of its System Audit Report is untrue.

Under Section 1.45(b) of the FCC's rules and regulations, 47 C.F.R. § 1.45(b), an opposition to any motion, petition or request may be filed with ten (10) days of the original pleading. US LEC filed its Motion for Extension of Time on June 29, 2004, and the pleading is posted on the FCC's electronic filing website. The Opposition was filed with the FCC on December 6, 2004 – clearly more than ten days after the original motion

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<sup>1</sup> The subsidiaries are: US LEC Communications Inc.; US LEC of Alabama, Inc.; US LEC of Florida Inc.; US LEC of Georgia Inc.; US LEC of Maryland Inc.; US LEC of North Carolina Inc.; US LEC of Pennsylvania Inc.; US LEC of South Carolina Inc.; US LEC of Tennessee Inc.; and, US LEC of Virginia LLC.

<sup>2</sup> US LEC received the Opposition via first-class mail on December 10, 2004.


was filed with the FCC. APCC fails to provide any reason as to why it waited more than five months to file the Opposition nor does it seek relief from the FCC's rules to file its late-filed pleading.

Moreover, APCC is incorrect when it asserts that (a) US LEC's System Audit Report remains unfiled and (b) US LEC failed to file the System Audit Report within the time period sought by US LEC's Motion for Extension of Time. US LEC sought a 60-day extension from the July 1 filing date in which to file its Systems Audit Report. On August 31, 2004, the FCC received the System Audit Report filed by US LEC along with the information identifying the US LEC employee responsible for tracking, compensating and resolving disputes concerning payphone-completed calls. A copy of the proof of filing copy is attached hereto as Exhibit A.

Accordingly, as APCC failed to timely file its Opposition and its allegations against US LEC are incorrect, US LEC asks the FCC to dismiss the Opposition as it relates to US LEC's Motion for Extension of Time filed in the above-styled proceeding.

Respectfully submitted,

**US LEC CORP., ON BEHALF OF ITSELF  
AND ITS OPERATING SUBSIDIARIES**

By:   
Terry J. Romine  
Deputy General Counsel – Regulatory  
US LEC Corp.  
6801 Morrison Boulevard  
Charlotte, NC 28211  
(704) 319-1119 (Telephone)  
(704) 602-1119 (Facsimile)  
[tromine@uslec.com](mailto:tromine@uslec.com) (Email)

Date: December 13, 2004

US LEC RESPONSE  
TO OPPOSITION OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL  
TO REQUESTS FOR ADDITIONAL  
TIME TO FILE SYSTEM AUDIT REPORTS

EXHIBIT A

US LEC CORP. AND ITS OPERATING SUBSIDIARIES  
SYSTEM AUDIT REPORT  
CC DOCKE NO. 96-128  
FILED AUGUST 31, 2004

# US LEC

voice / data / Internet

PROOF OF FILING COPY

US LEC Corp.  
Morrocroft III  
6801 Morrison Boulevard  
Charlotte, North Carolina 28211  
(704) 319-1000  
www.uslec.com

**VIA FEDERAL EXPRESS**

August 30, 2004

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

RECEIVED & INSPECTED

AUG 31 2004

FCC - MAILROOM

Re: US LEC Corp. and its Operating Subsidiaries  
System Audit Report  
CC Docket No. 96-128

Dear Ms. Dortch:

On behalf of US LEC Corp. and its operating subsidiaries<sup>1</sup> (collectively, "US LEC") and in accordance with the requirements of Section 64.1320(b) of the Commission's rules and pursuant to the Motion for an Extension of Time filed June 29, 2004, enclosed is US LEC's System Audit Report. The System Audit Report consists of two elements as required by Section 64.1320(d) of the Commission's rules:

1. US LEC's representation of compliance; and,
2. The opinion of Dixon Hughes PLLC, an independent auditor, concerning the representation.

Pursuant to Section 64.1320(e) of the Commission's rules, the US LEC employee responsible for tracking, compensating and resolving disputes concerning payphone-completed calls:

Jonathan Pillsbury  
US LEC Corp.  
6801 Morrison Boulevard  
Charlotte, NC 28211  
Direct Dial: (704) 319-1024  
E-mail: [jpillsbury@uslec.com](mailto:jpillsbury@uslec.com)

<sup>1</sup> US LEC Communications Inc.; US LEC of Alabama Inc.; US LEC of North Carolina Inc.; US LEC of South Carolina Inc.; US LEC of Florida Inc.; US LEC of Tennessee Inc.; US LEC of Virginia LLC; US LEC of Maryland Inc.; US LEC of Pennsylvania Inc.; and, US LEC of Georgia Inc.

US LEC uses a clearinghouse to process its payphone compensation:

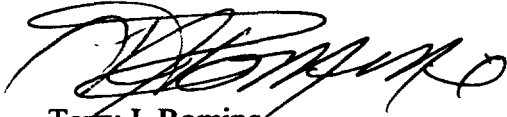
National Payphone Clearinghouse  
201 East Fourth Street, 102-980  
Cincinnati, OH 45201-2301

In accordance with Sections 64.1320(b) and 64.1320(e), US LEC is providing a copy of the System Audit Report to applicable payphone service providers and facilities-based long distance carriers.

Finally, enclosed is a proof of filing copy of this letter which we ask that you date stamp and return to us in the enclosed self-addressed, postage prepaid envelope.

Please direct any questions to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Romine", with a large, stylized flourish at the end.

Terry J. Romine  
Deputy General Counsel – Regulatory

Enclosures



**DIXON HUGHES** PLLC

Certified Public Accountants and Advisors

## **INDEPENDENT ACCOUNTANTS' REPORT**

Board of Directors  
US LEC Corp.  
Charlotte, North Carolina

We have examined the assertions of the management of US LEC Corp. (US LEC), included in the accompanying letter, that the payphone service provider compensation procedures of US LEC comply with the Federal Communications Commission's Rule Section 64.1310 (47 C.F.R. § 64.1320(d)) as of August 12, 2004. Management is responsible for the assertions. Our responsibility is to express an opinion on management's assertions based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting management's assertions and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, management's assertions referred to above are fairly stated, in all material respects, based on the Federal Communications Commission's Rule Section 64.1310 (47 C.F.R. § 64.1320(d)), as of August 12, 2004.

*Dixon Hughes PLLC*

August 12, 2004

103 Dorsett Drive, PO Box 1945  
Salisbury, NC 28145-1945  
Ph. 704.636.9090 Fx 704.639.0047  
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A Member of  
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# **US LEC**

**voice / data / Internet**

August 12, 2004

Dixon Hughes PLLC  
103 Dorset Drive  
P.O. Box 1945  
Salisbury, NC 28145-1945

Re: US LEC System Audit Report of Pay Telephone Compensation  
FCC Rule Section 64.1310 (47 C.F.R. § 64.1320)

In accordance with the requirements found in Section 64.1320(d) of the Federal Communications Commission's rules (47 C.F.R. § 64.1320(d)), US LEC Corp., on its behalf and on behalf of its operating subsidiaries<sup>1</sup> (collectively, "US LEC") makes the following representations regarding its compliance with the payphone service provider ("PSP") compensation procedures as of August 12, 2004:

1. US LEC's procedures accurately track calls to completion. Each call record, which is information on usage that is captured and recorded at the applicable US LEC switch, has a code that identifies a call that originates from a payphone. The call data records are created for processing utilizing this identifying code:
  - a. If answer supervision occurs and the call record reflects conversation recorded time of more than zero (0), US LEC deems that call to have been completed;
  - b. If the call record has conversation recorded time of zero (0), US LEC deems that the call has not been completed and is not a compensable call.
  - c. In addition, if the originating number has not been provided by the previous carrier and the originating number is all zeros, US LEC deems this call as non-compensable.

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<sup>1</sup> US LEC Communications Inc.; US LEC of Alabama Inc.; US LEC of North Carolina Inc.; US LEC of South Carolina Inc.; US LEC of Florida Inc.; US LEC of Tennessee Inc.; US LEC of Virginia LLC; US LEC of Maryland Inc.; US LEC of Pennsylvania Inc.; and, US LEC of Georgia Inc.



2. US LEC has a person responsible for tracking, compensating and resolving disputes concerning payphone-completed calls:

Jonathan Pillsbury  
US LEC Corp.  
6801 Morrison Boulevard  
Charlotte, NC 28211  
Direct Dial: (704) 319-1024  
E-mail: [jpillsbury@uslec.com](mailto:jpillsbury@uslec.com)

US LEC uses a clearinghouse to process its payphone compensation:

National Payphone Clearinghouse  
201 East Fourth Street, 102-980  
Cincinnati, OH 45201-2301

3. US LEC has effective data monitoring procedures:
  - a. US LEC maintains a data warehouse containing detailed call records. The data is maintained for 13 months, after which the data is stored via tape and can be accessed if needed.
  - b. There is weekly monitoring by the Billing Assurance team to ensure that all usage is captured, recorded and billed from the switches. Trending reports are reviewed to ensure accuracy.
  - c. There is daily monitoring by the IT/IS organization to ensure we are retrieving, processing and storing all files from the switches.
4. US LEC adheres to established protocols to ensure that any software, personnel or other network changes do not adversely affect its payphone call tracking ability.
5. US LEC has contracted with the National Payphone Clearinghouse to create compensable payphone files by matching call detail records against payphone identifiers and National Payphone Clearinghouse creates such files:
  - a. National Payphone Clearinghouse receives from each PSP a request for compensation, which includes the Automatic Number Identifier of its payphone(s), and matches this request against the data provided by US LEC.

- b. National Payphone Clearinghouse needs the following information from the PSP in order to submit US LEC's compensation to them:
  - i. Payphone numbers used by the PSP;
  - ii. Current address and contact number of PSP; and
  - iii. Email address to which quarterly data should be sent.
- 6. US LEC has contracted with the National Payphone Clearinghouse to incorporate call data into required reports and National Payphone Clearinghouse has procedures to so incorporate the call data into required reports, and such reports are provided to US LEC for review on a quarterly basis.
- 7. US LEC has implemented procedures and controls needed to resolve disputes.
- 8. The independent third party auditor can test all critical controls and procedures to verify that errors are insubstantial.
- 9. US LEC has adequate and effective business rules for implementing and paying payphone compensation including rules used to:
  - a. Identify calls originated from payphones;
  - b. Identify compensable payphone calls, and
  - c. Identify incomplete or otherwise non-compensable payphone calls;

US LEC has contracted with the National Payphone Clearinghouse to identify the payphone service providers to which US LEC owes compensation and relies on the National Payphone Clearinghouse to have adequate and effective business rules to determine such identities. US LEC has reviewed the Report on Policies and Procedures of the National Payphone Clearinghouse for compensation of the PSPs and the auditor's report,<sup>2</sup> and found the National Payphone Clearinghouse to have adequate and effective business rules for determining the identities of the PSPs to which US LEC owes compensation.

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<sup>2</sup> NPC Type I SAS Report (KMPG LLP – Auditor) for 1/1/04 – 3/31/04 and NPC Type II SAS Report (KMPG LLP- Auditor) for 7/1/03 – 12/31/03.

US LEC therefore certifies that we have established a call tracking system pursuant to Section 64.1310(a)(1) of the FCC's rules and are in compliance with Sections 64.1310 and 64.1320 of the FCC's rules.

Sincerely,

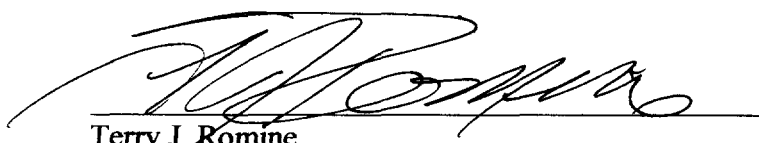
A handwritten signature in cursive script that reads "Charlene Law".

Charlene Law  
Director, CABS & Billing Assurance

## CERTIFICATE OF SERVICE

The undersigned certifies that on December 13, 2004, she caused to be forwarded the foregoing Response to Opposition of the American Public Communications Council to Requests for Additional Time to File System Audit Report via first class US Mail, postage prepaid to the following:

Albert H. Kramer Robert F. Aldrich 2101 L Street, N.W. Washington, DC 20037-1526	Ann Jouett Kinney 201 East Fourth Street Room 102-890 Cincinnati, Ohio 45202
Eric J. Branfman Kathleen Greenan Ramsey Danielle C. Burt Swidler Berlin Shereff Friedman, LLP 3000 K Street, N.W., Suite 300 Washington, DC 20007	John F. Jennings Big River Telephone, LLC 24 South Minnesota Cape Girardeau, MO 63701
Daniel Hamm Controller Total Call International 707 Wilshire Blvd. 9 <sup>th</sup> Floor Los Angeles, CA 90017	Kathleen Greenan Ramsey Kathy L. Cooper Swidler Berlin Shereff Friedman, LLP 3000 K Street, N.W., Suite 300 Washington, DC 20007
Dana Frix Kemal Hawa Chadbourn & Parke LLP 1200 New Hampshire Ave., N.W. Suite 300 Washington, DC 20036	Kirk Smith, President 5302 Avenue Q Lubbock, TX 79412
Chérie R. Kiser Angela F. Collins Mintz, Levin, Cohn, Ferris, Glovsky, And Popeo, P.C. 701 Pennsylvania Ave., N.W. Suite 9900 Washington, DC 20004	



Terry J. Romine